## REMARKS

Claims 1-11 and 14-16 are withdrawn. New claims 19-30 have been added. Therefore, Claims 12, 13, 17, and 18-30 are pending.

**Rejections under 35 U.S.C. §103(a)**

The Examiner has rejected Claims 12, 13, 17, and 18 under 35 U.S.C. §103(a) as being allegedly unpatentable over Haldas *et al.* (USP 3,772,045), Yamagisi *et al.* (USP 4,190,454), Donnison *et al.* (J. Dental Res. 1963 42:587-593), or Mallon (ZKG International 1988 41:309-311). More specifically, the Examiner indicated that unless applicants can show criticality of the particle size, control of particle size would appear to be obvious design choice for one of ordinary skill in the art. The Applicants respectfully disagree.

To establish a *prima facie* case of obviousness, the PTO must cite one or more references that provide some suggestion or motivation to modify the references to achieve the claimed invention, provide a reasonable expectation of success to achieve the claimed invention, and finally, the cited art must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). Here, the cited art either taken alone or in combination, fails to provide any of the required factors.

The Examiner acknowledges that none of the cited references teaches a particle size of less than about 30 micron. There is no suggestion to further refine the described compositions. Therefore, none of the cited references teaches or suggests all of the claim limitations. There is no teaching, suggestion or motivation in any of these references for one of ordinary skill in the art to modify the references and to produce plaster compositions and/or powders according to the invention.

The Applicant wishes to draw the Examiner's attention to Example 1 and Figure 3 which clearly show that a fine granulometry (mean particle size of less than about 30 microns) enhances significantly the retarding effect of the calcium tartrate added (see page 9, lines 19-20 of the Specification as filed). The increase in force needed to penetrate the paste clearly occurs later for the fine (F) sample obtained after grinding, than for a normal sample (N). The curve is further flatter for the fine (F) sample compared to normal (N) sample. Both are indications for the

efficiency of retardation linked to particle size. There are thus clear unexpected advantageous effects related to a plaster composition and/or powder according to the invention.

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants request withdrawal of all rejections and the expeditious allowance of the pending claims.

## CONCLUSION

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the undersigned at (619) 687-8633 (direct line), to discuss such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: Sept 4, 2003

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